

C.C.R.B CASE CLOSING FORM

Investigator assigned: J. Smith		Team: 7	CCRB#: 9701790	<input type="checkbox"/> Force <input type="checkbox"/> Discourtesy <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Date of incident: 4/2/97 5/13/97 5/20/97	Time of incident: 10:15 AM 5:30 AM 11:30 AM	Location of incident: § 87(2)(b)	Pct. of occurrence: 25	Date S.O.L. Expires: 11/20/98
Date reported: 5/20/97	Time reported: 2:22 PM	To whom/where/how reported: Complaint made by phone to CCRB		
Complainant: § 87(2)(b)		Home address: § 87(2)(b)		
Victim(s): § 87(2)(b)		Home address: same as above		
Witness(es): Det. Joni P. Marines		Home address: I.A.B. Group #11		
Subject officer(s) (include rank): LSA James O'Neill PO Christopher McCormack		Shield: N/A 05673	Tax: 908927 895704	Command: Manhattan Warrant Squad Manhattan Warrant Squad
Witness officer(s) (include rank): PO John Flanagan Det. Abdon Zayas Det. Rudy Zotter Det. Iran Alicea		Shield: 1832 5756 4989 1530	Tax: 890016 893816 909931 909514	Command: Manhattan Warrant Squad Manhattan Warrant Squad Manhattan Warrant Squad Manhattan Warrant Squad
Allegation(s) by letter: A) LSA O'Neill abused his authority when he searched § 87(2)(b)'s apartment in violation of Patrol Guide procedure 116-50. B) PO McCormack abused his authority when he searched § 87(2)(b)'s apartment in violation of Patrol Guide procedure 116-50. C) LSA O'Neill abused his authority when he damaged property in § 87(2)(b)'s apartment in violation of Patrol Guide procedure 116-50. D) PO McCormack abused his authority when he damaged property in Ms. § 87(2)(b)'s apartment in violation of Patrol Guide procedure 116-50.				Recommendation(s): A) § 87(2)(g) B) § 87(2)(g) B) § 87(2)(g) C) § 87(2)(g)

NOTE: Det. Abdon Zayas was an officer at the time of the incident in question.

Summary

On April 2, 1997, at approximately 6:00 AM, PO McCormack, PO Zayas and PO Flanagan went to the Ms. § 87(2)(b)'s residence, at § 87(2)(b) to execute Supreme Court Bench Warrant, number § 87(2)(b), for § 87(2)(b). The officers left the location when no one answered the door. At approximately 6:00

AM, § 87(2)(b)'s neighbors, § 87(2)(b) and § 87(2)(b) heard loud banging, but did not leave their apartment to see what was going on. At approximately 7:00 AM, § 87(2)(b) left his apartment to get coffee, at which time he observed that the door to § 87(2)(b)'s apartment was locked, but "messed up." At approximately 9:30 AM, three plainclothes officers knocked on the § 87(2)(b) door. The officers showed § 87(2)(b) a picture of § 87(2)(b) and asked her if she knew him. § 87(2)(b) replied that she knew § 87(2)(b) but only in passing. The officers then asked § 87(2)(b) if they could look in her apartment for § 87(2)(b). § 87(2)(b) permitted the officers to enter her apartment. After the officers left § 87(2)(b)'s apartment, she heard continuous banging until approximately 10:00 AM.

According to the officers involved, at approximately 10:00 AM, PO McCormack called the § 87(2)(b) residence and spoke with § 87(2)(b), who stated that he had been present inside the apartment at 6:00 AM when the officers were there. § 87(2)(b) also indicated that he would not turn himself in to the authorities. At approximately 10:15, PO McCormack, Det. Zayas and PO Flanagan returned to the § 87(2)(b) residence with Lt. O'Neill. After hearing noises inside the apartment, one of the officers kicked in the door. PO McCormack, Det. Zayas, and Lt. O'Neill entered the apartment; PO Flanagan remained outside the apartment. Det. Zayas remained in the central living area of the apartment, while Lt. O'Neill and PO McCormack searched the interior rooms for § 87(2)(b). The apartment was in disarray upon entry, with clothes and furniture piled on the floor throughout the rooms. Neither § 87(2)(b) nor § 87(2)(b) was present in the apartment. The officers secured the door when they left.

According to § 87(2)(b), on April 2, 1997, at approximately 11:00 AM, three or four officers returned to her door and asked to speak with her father, § 87(2)(b). The officers asked § 87(2)(b) if he knew anything about his next door neighbor § 87(2)(b). § 87(2)(b) told the officers that § 87(2)(b) used to live next door, and was last seen a couple of days earlier. § 87(2)(b) then observed one of the officers get a running start and kick down the door to the § 87(2)(b) apartment.

Between 7:30 PM and 8:00 PM on April 2, 1997, § 87(2)(b) returned home and discovered that the door to her apartment had been banged in and the lock broken. Unable to gain entry to her apartment, § 87(2)(b) went to the neighborhood precinct station house where she was instructed to call 911 from her apartment and wait for the police to respond. § 87(2)(b) returned to her building and asked § 87(2)(b) if she could call the police from her apartment.

PO Curly from PSA 5 responded to § 87(2)(b)'s call for assistance, but was unable to open the door to Ms. § 87(2)(b)'s apartment. PO Curly called for back up and the door was eventually kicked down. After entering the apartment, PO Curly informed § 87(2)(b) that he would write up the incident as a robbery, because the apartment appeared to have been ransacked. After questioning § 87(2)(b) and § 87(2)(b), PO Curly learned that police officers had entered § 87(2)(b)'s apartment.

On May 13, 1997, at approximately 5:30 AM, PO McCormack, Lt. O'Neill, Det. Alicia and Det. Zotter went to the § 87(2)(b) residence to execute the warrant for § 87(2)(b). After hearing noises inside the apartment, one of the officers kicked in the door. Det. Alicia was assigned to secure the outside of § 87(2)(b)'s building. He did not enter the building or the § 87(2)(b) apartment. Det. Zotter was assigned to secure the front door of the apartment. He did not enter the § 87(2)(b) apartment and did not aid in the search for § 87(2)(b). PO McCormack and Lt. O'Neill entered the § 87(2)(b) residence and carried out the search for § 87(2)(b). Just as before, the apartment was in disarray, with clothing and other articles in large piles on the floor. Neither § 87(2)(b) nor Ms. § 87(2)(b) was present in the apartment. The officers secured the door when they left.

At approximately 6:00 AM, on May 13, 1997, § 87(2)(b) was heard a loud banging noise, but did not leave her apartment to see what was going on. The banging stopped between 6:15 AM and 6:30 AM. § 87(2)(b) heard loud banging at approximately 7:00 AM, at which time he looked through the peephole and observed three or four officers in blue jackets in the hallway. § 87(2)(b) thought that the officers used a sledgehammer to gain entry into § 87(2)(b)'s apartment. § 87(2)(b) left for work at approximately 7:30 AM, at which time she observed that § 87(2)(b)'s door was locked and the hallway was empty. § 87(2)(b) left his apartment at 9:00 AM and observed that § 87(2)(b)'s door appeared locked and the hallway was empty.

At approximately 8:00 PM, § 87(2)(b) returned home and found that her apartment had been broken into a second time. § 87(2)(b) had since replaced the locks that had been damaged as a result of the first incident. Ms. § 87(2)(b) called PSA 5 from § 87(2)(b)'s apartment and stated that her apartment had been ransacked a second time. Sgt. Zunick and PO Johnson responded to § 87(2)(b)'s call for assistance, at which time they informed her that they would call the NYC Housing Authority and request that her door be repaired. The officers secured the door with a padlock before leaving.

§ 87(2)(b) learned the identity of the officers who had entered her apartment from the business card they had left with the § 87(2)(b) on April 2, 1997. § 87(2)(b) called one of the officers, PO McCormack and informed him that her son no longer lived with her, having moved out on April 1, 1997. PO McCormack responded that he would continue to break into her home until he found her son, or until her son was dead.

On May 19, 1997, § 87(2)(b) a § 87(2)(b) for the NYC Housing Authority revealed that he was ordered by § 87(2)(b) § 87(2)(b) of the NYC Housing Authority to install a new front door at § 87(2)(b) § 87(2)(b) on May 19, 1997. § 87(2)(b) responded to § 87(2)(b)'s residence at approximately 10:00 AM, at which time he discovered that a pad lock was securing the door and § 87(2)(b) was not home as he had expected. After receiving permission from § 87(2)(b) § 87(2)(b) clipped the pad lock on § 87(2)(b)'s door at approximately 11:30 AM, and looked inside the apartment to ensure that no one was present. § 87(2)(b) then measured the door and left the apartment at approximately 11:45 AM, replacing the broken pad lock on the door while he went to his shop to obtain a new door. Realizing that he could not install the new door that day, and not wishing to leave the § 87(2)(b) residence unsecured, § 87(2)(b) obtained a new pad lock from § 87(2)(b) and placed it on § 87(2)(b)'s door at approximately 3:00 PM. § 87(2)(b) also left instructions for § 87(2)(b) to pick up the key to the new pad lock at § 87(2)(b)'s office.

On either May 19, 1997 or May 20, 1997 (the complainant could not recall), § 87(2)(b) discovered that her apartment had been broken into and ransacked a third time. The pad lock on the door had been broken, the apartment searched, and the door secured with a second pad lock. § 87(2)(b) found the broken pad lock inside her apartment. § 87(2)(b) did not observe anyone entering or exiting the § 87(2)(b) residence on May 20, 1997. None of the officers interviewed participated in a search of the § 87(2)(b) residence on May 19, 1997 or May 20, 1997.

Analysis

Lt. O'Neill abused his authority when he searched § 87(2)(b)'s apartment (allegation A). PO McCormack abused his authority when he searched § 87(2)(b)'s apartment (allegation B).

§ 87(2)(g) § 87(2)(b) herself stated that her son resided with her up until April 1, 1997, the day before PO McCormack and the other officers searched the residence. § 87(2)(b) also told Det. Marines, from I.A.B. on August 14, 1997, that her son had a key to her apartment (see enclosures 3b). In addition, PO McCormack alleged that § 87(2)(b) answered a telephone call that he made to § 87(2)(b)'s residence at approximately 10:00 AM on April 2, 1997 (see enclosure 5c).

The fact that § 87(2)(b) resided with his mother was also supported by the WOLFE report, which indicated that § 87(2)(b) was last seen on January 6, 1992 at § 87(2)(b) and a 1990 arrest report listing § 87(2)(b)'s home telephone number as his mother's (see enclosure 15a). § 87(2)(g) § 87(2)(g)

LSA O'Neill abused his authority when he damaged property in § 87(2)(b)'s (allegation C). PO McCormack abused his authority when he damaged property in § 87(2)(b)'s apartment (allegation D).

The fact that PO McCormack and Lt. O'Neill used force to gain entry to the § 87(2)(b) residence was documented in the two City Involved Accident Reports that were filed on April 2, 1997 and May 13, 1997 (see enclosures 16 and 19). The report filed on April 2, 1997 indicated that the nature of the property damage consisted of a "broken front door" (see enclosure 16). The report filed on May 13, 1997 indicated "apartment door damaged" under nature of property damage (see enclosure 19).

§ 87(2)(b) alleged that her apartment was broken into on three occasions, the third being May 20, 1997.

She also stated that on that date, she discovered that a new padlock had been placed on her door and the old padlock left inside her apartment (see enclosure 2b). Det. Marines's interview with § 87(2)(b) a § 87(2)(b) for the New York City Housing Authority revealed that on May 19, 1997, § 87(2)(b) cut the padlock that had been securing § 87(2)(b)'s door, briefly entered the apartment, and replaced the old padlock with a new one that same day (see enclosure 3f). When questioned by Det. Marines as to the date she discovered that the padlock on her door had been replaced, Ms. Sowell stated that she was not sure if it was May 19 or May 20, 1997 (see enclosure 3a). PO McCormack, Lt. O'Neill, and all other officers involved in executing the warrant for § 87(2)(b) denied visiting or searching the § 87(2)(b) residence on May 20, 1997 (see enclosures 5d and 9d). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

On June 11, 1997, § 87(2)(b) testified that she telephoned PO McCormack and asked him why he was continuing to break into her home, when her son § 87(2)(b) no longer resided there. § 87(2)(b) alleged that PO McCormack responded that he would continue to break into her home until he found her son, or until her son was dead (see enclosure 2b). § 87(2)(g)


§ 87(2)(g)

§ 87(2)(g)

Ms. Sowell did not mention the alleged exchange when questioned by IAB Det. Marines on June 20, 1997, or August 14, 1997, and it was not listed as an IAB allegation (see enclosures 3a and 3b). § 87(2)(g)

§ 87(2)(g)

Investigator:



Date:

2-3-98

Supervisor:



Date:

2-3-98

Reviewed by:



Date:

2/3/98

Reviewed by:

Date: